

REMARKS

I. Status of the Claims

Claims 1 and 29-33 are pending. No claim has been amended herein.

II. Rejections Under 35 U.S.C. § 102

A. U.S. Patent No. 5,968,494

The Examiner has maintained the rejection of claims 1 and 29-33 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,968,494 ("Kukkala"). Final Office Action at 2-3. Applicants respectfully disagree and traverse the rejection for at least the following reasons in addition to the reasons of record.

Each of the presently pending claims recites that the "composition provides a reshapable effect." The Examiner continues to assert that "[h]air reshapable is same [sic] as hair fixatives." Final Office Action at 2.

For a reference to be anticipatory, every element recited in the claim must be disclosed in the reference. See *Verdegaal Bros. v. Union Oil Co. of Cal.*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."). Furthermore, the words of a claim must be given their plain meaning unless Applicant has provided a clear definition in the specification. *MSM Investments Co. v. Carolwood Corp.*, 59 U.S.P.Q.2d 1856, 1859-60 (Fed. Cir. 2001).

In the present specification, Applicants have defined the phrase "reshapable hair styling composition" to mean "a hair styling composition providing hair styling that can be restored or modified without new material or heat being applied." See Specification at page 3, lines 7-9 (emphasis added). Applicants further explain that a reshapable hair

styling composition allows the hairstyle to be modified or restored in case of drooping or dishevelment. *Id.* The specification further states that “[o]ther terms, which may be synonymous with reshapable, include repositionable, remoldable, restyleable, and remodelable.” *Id.*

Applicants respectfully submit that the Examiner’s arguments demonstrate a misunderstanding of the fundamental differences between Applicants’ claimed “reshapable effect” and Kukkala’s disclosed “retention” of curls. Curl retention is not a reshapable effect within Applicants’ definition. As explained above, the reshapable effect recited in the present claims requires the ability to restore or modify a hairstyle without adding new material or heat. See Specification at page 3, lines 7-9. In contrast, the hair retention of Kukkala involves styling the hair, i.e., curling, and then applying the composition to fix the hair in place. See Kukkala at col. 18, lines 25-64. Thus, no “reshapable effect” as claimed is present because the composition of Kukkala is applied after the styling takes place. The composition of Kukkala merely fixes a hairstyle in place. There is nothing within the disclosure of Kukkala to suggest that the composition allows for re-styling the hair after the composition has been applied. Nor does Kukkala teach that a hairstyle can be modified or restored without adding new material or heat after the hairstyle has already been fixed by the composition.

Thus, Kukkala merely teaches a composition with the ability to fix hair that has already been styled. Because Kukkala teaches a hair fixative and not a composition providing a reshapable effect, the reference fails to teach all of the claim limitations and cannot anticipate the present claims.

Accordingly, the 35 U.S.C. § 102(b) rejection of claims 1 and 29-33 over Kukkala is improper, and Applicants respectfully request its withdrawal.

B. U.S. Patent No. 5,626,840

The Examiner has maintained the rejection of claims 1 and 29-33 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,626,840 ("Thomaides"). Final Office Action at 3-4. Applicants respectfully disagree and traverse this rejection for at least the following reasons in addition to the reasons of record.

The Examiner asserts that "[c]url retention . . . satisfies the specification definition 'wherein hair styling is restored.'" Final Office Action at 3.

Applicants respectfully submit that the Examiner has failed to understand the differences between "reshaping" or "restoring" a hairstyle and "retaining" a hairstyle. Retaining a hairstyle occurs when hair is styled and a fixative is applied to fix that hairstyle. As defined by Applicants in the specification, the term reshapable is synonymous with restyleable. See Specification at page 3, line 15. There is nothing within the disclosure of Thomaides to suggest that the fixative provides a reshapable effect.

In fact, Thomaides teaches that the composition does not provide a reshapable effect by disclosing that the fixative is "superior . . . in stiffness and resistance to combing." Thomaides at col. 14, lines 59-62. This is the opposite of a reshapable effect which, as defined in Applicants specification, is the ability to restore or modify a hairstyle without new material or heat being applied, e.g., the ability to restyle hair. See

Specification at page 3, lines 7-15. Thus, Thomaides does not teach all of the limitations recited in the present claims.

Accordingly, the 35 U.S.C. § 102(b) rejection of claims 1 and 29-33 over Thomaides is improper, and Applicants respectfully request its withdrawal.

C. U.S. Patent No. 6,495,119

The Examiner has maintained the rejection claims 1 and 29-33 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,495,119 ("Sturla"). Final Office Action at 4-5. Applicants respectfully disagree and traverse this rejection for at least the following reasons in addition to the reasons of record.

The Examiner asserts that "fixing of the hairstyle is an important element of styling which can comprise maintaining the shape already given" is the same as "a hair styling composition providing hair styling that can be restored." Final Office Action at 4. The Examiner further asserts that "[m]aintaining the shape using polyurethane is same as hair styling that can be restored using the same polyurethane." *Id.* at 5.

The Examiner's assertion is incorrect. Maintaining a shape already given is not the same as providing a reshapable effect as recited in the claims. See Specification at page 3, lines 7-15 for the explicit definition of reshapable. To maintain a hairstyle means to keep that hairstyle, i.e., to fix the hairstyle in place. Conversely, Applicants define the reshapable effect to allow for restoring or modifying a hairstyle, such as when the hairstyle droops or becomes disheveled. *Id.* Thus, while maintaining a hairstyle aims to prevent the hairstyle from changing or being changed, a reshapable effect

allows the hairstyle to be modified or restored if the hairstyle changes. Therefore, maintaining a hairstyle and providing a reshapable effect are clearly different.

Because Sturla does not teach a composition providing a reshapable effect, the reference does not teach all of the limitations recited by the present claims.

Accordingly, the 35 U.S.C. § 102(e) rejection of claims 1 and 29-33 over Sturla is improper, and Applicants respectfully request its withdrawal.

III. Conclusion

In view of the foregoing remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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